

Attorney Docket No. (AP9912)209565-81761
Serial No. 10/089,955

PATENT

REMARKS

Applicants have carefully reviewed the Office Action dated September 27, 2004 (Paper No./Mail Date 09212004). By this Amendment, claim 10 has been amended and claims 10-12 and 14-18 remain pending. Applicants respectfully request reconsideration of the present application in view of the following remarks.

The Claims Satisfy the Requirements of 35 U.S.C. § 112, Second Paragraph

The Office action rejects Claims 10-12 and 14-18 under 35 U.S.C. § 112, Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed.

Claim 10 has been amended to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Claim 10 has been amended to distinctly claim the "braking force controller." Withdrawal of the rejection is respectfully requested.

Claims 11, 12 and 14-18, which depend from Claim 10, particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Claims Satisfy the Requirements of 35 U.S.C. § 103(a)

Claims 10-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukami et al. (U.S. Patent No. 5,857,754, hereinafter "Fukami") in view of Tanaka et al. (U.S. Patent No. 5,857,754, hereinafter "Tanaka"). The rejection is respectfully traversed.

Fukami fails to disclose that the controller further includes means for determining a vehicle delay value as a function of the differential brake force in the wheel brakes of the front axle and the vehicle speed. In an attempt to make up for the deficits of Fukami, the Examiner cites Figure 7 of Tanaka to support the Examiner's contention that Tanaka teaches a "means for

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determining a vehicle's delay value as a function of the differential brake force in the wheel brakes of the front axle and the vehicle speed." However, close review of Figure 7 of Tanaka shows that it relates to "oversteer" control methodology and not the claimed "understeering" control methodology. One skilled in the art would not be motivated to look toward oversteer control methodology to solve problems associated with understeer control methodology. Accordingly, for this reason alone, the claims of record are allowable because there is no motivation to combine the oversteer control methodology of Tanaka with the understeer methodology teaching of Fukami.

Moreover, even if there is motivation to combine Figure 7 of Tanaka with the teachings of Fukami, the resulting combination still does not teach or suggest the claimed invention. Specifically, claim 10 requires, amongst other things, a "means for determining a vehicle delay value" which is a function of two different parameters – 1) the differential brake force in the wheel brakes of the front axle, and 2) the vehicle's speed. In order for Tanaka to make up for the deficiencies in Fukami, it must teach the claimed "means for determining a vehicle delay value" and moreover, it must teach that the "means for determining a vehicle delay value" is determined as a function of differential brake force in the wheel brakes of the front axle and the vehicle's speed. Tanaka does not teach or suggest the claimed "means for determining a vehicle delay value", nor does it teach "means for determining a vehicle delay value as a function of the differential brake force in the wheel brakes of the front axle and the vehicle's speed." Specifically, the Examiner points to Figure 7 in support of his contention that Tanaka teaches "means for determining a vehicle delay value as a function of the differential brake force in the wheel brakes of the front axle and the vehicle's speed". (See page 4 of the Office Action dated September 27, 2004). However, close examination of Figure 7 of Tanaka reveals that it does not teach the determination of a delay value in any context and to read it as such is a misapplication of its teaching. The Examiner has not specifically called out which portion of Figure 7 he believes teaches determining a delay value and accordingly, the undersigned can only assume that the values T1, T2, T3, and T4 shown in Figure 7 of Tanaka are the "vehicle delay values"

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relied upon by the Examiner. However, T1, T2, T3, and T4 as disclosed in the corresponding supporting portions of the specification (see column 17, lines 47 et seq.) show that T1, T2, T3 and T4 are not in fact vehicle delay values but rather they are time durations wherein one measured parameter is greater than another measured parameter. For example, duration T1 in Figure 7 is the time period in which the absolute value of the second target yaw rate $\Phi(G)$ is smaller than the absolute value of the first target yaw rate $\Phi(\theta)$. When this relationship is present, the second target yaw rate $\Phi(G)$ is taken as the control target yaw rate $Tr\phi$ (see column 17, lines 47 et seq.). Thus, nowhere does Tanaka teach or suggest that its time durations T1, T2, T3, or T4 are "vehicle delay value[s]." In order for a time duration to be used as the "vehicle delay value", the specification would have to teach or suggest such a use. On page 4 of the Office Action, the Examiner briefly references column 16, lines 20-30 of the Tanaka reference. Although the Examiner's purpose for relying on this portion of Tanaka is unclear to the undersigned, this portion of Tanaka makes no mention of the claimed "means for determining a vehicle delay value. . ."

Moreover, even if there is motivation to combine Fukami with Tanaka and moreover, even if Fukami teaches the claimed "means for determining a vehicle delay value as a function of the differential brake force in the wheel brakes of the front axle. . ." claim 10 also requires the use of vehicle speed in conjunction with the "differential brake force in the wheel brakes of the front axle" in order to determine the vehicle delay value. It appears to the undersigned that Tanaka teaches the use of yaw rate for calculating understeering conditions and does not use vehicle speed as one of its parameters.

Accordingly, at least for the reasons given above, the undersigned believes that claim 10 and its dependent claims are now in condition for allowance.

Thus, Fukami, taken singly or in combination with Tanaka, does not teach a means for determining a vehicle delay value as a function of the differential brake force in the wheel brakes

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of the front axle and the vehicle speed. Accordingly, the combination of Fukami and Tanaka does not teach, disclose or suggest all the claim limitations of Applicant's claimed invention as required under 35 U.S.C. § 103(a). Withdrawal of the rejection is respectfully requested.

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CONCLUSION

If any additional fees are required in connection with the filing of this paper, permission is given to charge account number 50-3145 in the name of Honigman Miller Schwartz and Cohn LLP.

Respectfully submitted,

Date:

December 22, 2004

By: 

Joseph V. Coppola, Sr. (Reg. No. 33,373)

Sonu N. Weaver (Reg. No. 52,060)

HONIGMAN MILLER SCHWARTZ & COHN LLP

32270 Telegraph Road, Suite 225

Bingham Farms, Michigan 48025-2457

(248) 566-8500

Customer No. 44200

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